

# **Rules of the Road**

## ***Compliance Pathways for New & Existing Providers***



### **PARTICIPANT GUIDE**

Developed by:

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Center for Community Development, Engagement and Training (CCDET)

<https://uwosh.edu/ccdet/caregiver-home/>

#### **Wisconsin Department of Health Services**

Division of Quality Assurance (DQA)

[www.dhs.wisconsin.gov/caregiver](http://www.dhs.wisconsin.gov/caregiver)

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# Introduction

The Wisconsin Department of Health Services (DHS), Division of Quality Assurance (DQA) provides regulatory oversight to numerous health care, home care and residential care provider types in Wisconsin. Settings in which individuals receive care and services from DQA-regulated providers include assisted living facilities, adult day care centers, mental health and substance use treatment services, or individuals receiving care in their own homes through personal care, home health and hospice agencies.

Entities that are licensed, certified, and regulated by the DHS Division of Quality Assurance must comply with various requirements under state law. This workshop outlines important onboarding steps for newly licensed/certified entities seeking to comply with those requirements. Existing entities may also benefit from a review of ongoing requirements presented in this workshop.

Printable Quick Reference Charts were created by UW Oshkosh CCDET appropriate for the following providers:

- Adult Day Care Centers (ADCC)
- Adult Family Homes (AFH)
- Community-Based Residential Facilities (CBRF)
- Home Health Agencies (HHA)
- Hospices
- Personal Care Agencies (PCA)
- Residential Care Apartment Complexes (RCAC)
- Substance Use Services provided in CBRFs



## Learning Points

Upon completion of this course, participants will be able to:

- comply with general requirements for all provider types
- identify provider specific regulatory requirements for documentation, record keeping and other administrative tasks
- be familiar with other review, reporting and process information that may apply
- identify survey process similarities and differences across provider types
- address some common compliance concerns
- utilize resources available to support regulatory compliance

## General Requirements

Through legislative action, the Wisconsin Department of Health Services is granted the authority to develop and enforce regulations and standards for the care, treatment, health, safety, rights, welfare, and comfort of consumers being served by Division of Quality Assurance regulated entities.

Under Wisconsin Statute, Chapter 50, the Uniform Licensure for Care and Service Residential Facilities, the Department has authority to provide uniform, statewide licensing, inspection, and regulation of residential facilities and homecare providers. With this authority, the Department certifies, inspects, and regulates providers (for the purpose of the training) such as Adult Family Homes, Community Based Residential Facilities, Adult Day Care Centers, Home Health Agencies, Hospices, Personal Care Agencies and Residential Apartment Complexes. Under penalty of the law, no person may operate a care and residential facility as defined by Chapter 50, unless it is licensed or certified by the department.

Caregivers working in DQA-regulated settings perform important work caring for Wisconsin residents. These activities include assisting residents with activities of daily living (ADLs), such as bathing, dressing, and eating. There are some activities or procedures that individuals living in a residential setting may require that can only be performed by a certified nurse aide (CNA), also known as a nurse aide.

A nurse aide may perform routine patient care or procedures that are within the scope of practice of a CNA, and which are delegated by a licensed practical nurse (LPN) or registered nurse (RN) who supervises the nurse aide, for the direct health care of the resident. To become a nurse aide, the individual must successfully complete instruction in an instructional program for nurse aides that is approved by the department and have successfully completed a competency evaluation program. Chapter 146.40, Miscellaneous Health Provisions, administers the federal and state requirements for nurse aide training, the competency evaluation program, and the federal nurse aide registry.

## **Department Powers and Duties**



**WISCONSIN DEPARTMENT  
of HEALTH SERVICES**

The Department of Health Services is one of the largest state agencies in Wisconsin with ten divisions and offices having the mission to protect and promote the health and safety of the people of Wisconsin. The values of the department, in part, include focusing on the needs of the people served, and collaboration with its partners.

### **Division of Quality Assurance**

The Division of Quality Assurance is one of the ten divisions within the Department. By the authority granted by the Legislature to the Department, the Department has designated DQA with the responsibility for protecting and promoting the health, safety, and welfare of residents living and receiving care in the health and residential care facilities. DQA is responsible for regulating and licensing more than 40 different programs and facilities that provide health, long-term care, mental health, and substance use services, as well as conducting caregiver background checks and investigations.

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## **Wisconsin Caregiver Law Requirements**

The Wisconsin Caregiver Law was fully implemented in 1999 to protect clients in health care settings from abuse, neglect, or misappropriation of property. Within the Division of Quality Assurance, the Office of Caregiver Quality (OCQ) administers the Background Check and Misconduct Investigation Program to ensure that the Caregiver Law requirements are met.

The Background Check and Misconduct Investigation Program provides regulatory oversight of the Caregiver Law and protects individuals receiving care and treatment in DQA-regulated settings by responding to the potential for physical, emotional, and financial abuse of vulnerable citizens by persons who have been convicted of serious crimes or have a history of improper behavior.

Under the Wisconsin Caregiver Law, employers and licensing agencies are required to:

- Conduct background checks
- Closely examine the results of the background checks for criminal arrests and convictions or findings of misconduct by a governmental agency, and
- Make employment and licensing decisions based on the results of the background checks in accordance with the requirements and prohibitions in the law.

Therefore, the Caregiver Law requires two types of background checks:

- Caregiver background checks completed by DQA-regulated providers on their employees and contractors, and
- Entity background checks completed by DQA on entity operators, owners, license holders, legal representatives, and non-client residents of DQA regulated entities.

Refer to <https://www.dhs.wisconsin.gov/misconduct/backgroundchecks.htm> for more information.

### **Caregiver Background Checks**

Providers are required to conduct background checks on any person who meets all the following:

- Is employed by or under contract with a provider,
- Has regular, direct contact with the provider's clients or the personal property of the clients and,
- Is under the provider's control

It's important to note that this may also include housekeeping, maintenance, dietary and administrative staff, if those individuals are under the provider's control and have "regular, direct contact" with clients or their property.

Providers must also complete background checks on any person (including those under age 18) who will be completing an internship or clinical training in a provider setting and, on any person employed by a temporary agency but placed in a covered provider setting as a caregiver.

To complete caregiver background checks on employees and contractors, providers must complete the following steps:

- The employee or contractor must complete a Background Information Disclosure (BID) form F-82064 <https://www.dhs.wisconsin.gov/forms/f8/f82064.pdf>, and
- Request a caregiver background check from the Wisconsin Department of Justice (DOJ) through the Wisconsin Online Record Check System (WORCS) at <https://recordcheck.doj.wi.gov/>

For more information on completing employee and contractor background checks, see the Background Check and Misconduct Investigation webpage at <https://www.dhs.wisconsin.gov/misconduct/employee.htm>, and Chapter 2 of the Wisconsin Background Check and Misconduct Investigation Program Manual at <https://www.dhs.wisconsin.gov/publications/p0/p00038.pdf>.

### **Entity Background Checks**

Just as providers are required to conduct caregiver background checks on employees and contractors, DQA is required to conduct caregiver background checks on:

- The entity operator (owner, license holder, legal representative, etc.), whether or not they have regular, direct contact with clients
- Principal officers, corporation or board members who have regular, direct contact with clients
- Any person who is not a client or employee of the provider but who resides at the provider setting and is expected to have regular, direct contact with the clients (also known as “non-client residents.”)

Individuals seeking any of the above approvals must apply for a background check by accessing the [background check system](#) (for entity operators, non-client residents, rehabilitation review applicants). Additional information can be found in Chapter 3 of the Wisconsin Background Check and Misconduct Investigation Program Manual at <https://www.dhs.wisconsin.gov/publications/p0/p00038.pdf>.

### **Misconduct Investigation Program**

The Caregiver Law also requires regulated entities to report allegations, incidents, and suspected occurrences of abuse, neglect, or misappropriation of client property to DQA. Facilities must establish a protocol, or a plan of action, to investigate any suspected or reported allegation of misconduct in advance of any reported suspicion or allegation of misconduct.

The facility must identify staff who will comprise the investigation team which should include a lead investigator along with other supervisory/professional staff.

Written procedures are required to specify:

- How and to whom staff are to report incidents
- How internal investigations will be completed
- How staff will be trained on the procedures related to allegations of caregiver misconduct
- How residents will be informed of those procedures

Every entity must ensure that its employees, contractors, volunteers, clients, and non-client residents are knowledgeable about the entity's misconduct reporting procedures and requirements. Staff must be trained to immediately report to the appropriate person all allegations of misconduct, including abuse or neglect of a client or misappropriation of a client's property.

Immediately upon learning of the incident, the entity must take necessary steps to protect clients from possible subsequent incidents of misconduct or injury. Entities are encouraged to notify local law enforcement authorities in any situation where there is a potential criminal offense. Lastly, the entity must investigate and document the findings for any allegation, incident, or suspected occurrence of misconduct and report the findings to DQA as required.

For more information on reporting and Investigations Requirements, see the webpage [Report Abuse, Neglect, or Misappropriation | Wisconsin Department of Health Services](#) and Chapter 6 of the Wisconsin Background Check and Misconduct Investigation Program Manual at <https://www.dhs.wisconsin.gov/publications/p0/p00038.pdf>

### **Background Check and Misconduct Investigation Onboarding**

The Onboarding for New Providers publication (P-03533) found at <https://www.dhs.wisconsin.gov/publications/p03533.pdf> outlines important onboarding steps for new applicants for regulatory approval (ex. license, certification, non-client residence, etc.) and newly established entities seeking to comply with Program requirements.

## **Division of Quality Assurance Updates**

In an effort to ensure that all DQA-regulated providers are up to date with current information, updates, and changes specific to their program type, DQA offers an email subscription service. This service is easy to sign up for by simply providing an email address and allows providers to choose from specific areas of interest to all DQA notifications and general email updates, as well as general DHS email lists.

Information is listed by topic and is archived for the previous 12 months. Topics include news releases, webinars, lunch and learns, training opportunities, initiatives, and innovative programs. You can also receive information on DHS Data Releases including population surveys, various health topics, vital records, and partner communications.

### **Email Subscription Service**

The DQA Email Subscription Service provides the opportunity to sign up and receive electronic notification of information related to the more than 40 entities licensed and regulated by DQA by going to <https://www.dhs.wisconsin.gov/regulations/listserv-signup.htm>.

### **DQA Assisted Living Forum Email Updates**

Provides updates about issues related to assisted living and the [Assisted Living Forum](#). The Assisted Living Forum brings together people who work in assisted living to discuss:

- Assisted living care rules
- Best practices for assisted living care
- Local and national trends in assisted living
- Public funding issues

The DQA Bureau of Assisted Living holds the Assisted Living Forum four times a year. Forums are attended via Zoom and participants may submit specific questions prior to forum dates for discussion. Agendas and handouts are provided from previous forums.

### [DQA Notifications and General Email Updates](#)

Provides updates about entities that DQA regulates. Updates include:

- [CMS program letters](#)  
The Center for Medicaid & Medicare Services (CMS) sends out memos and notices to certain provider types such as nursing homes, home health and hospice agencies that in addition to state regulations, must also follow federal regulations. Assisted Living providers are not regulated by CMS, therefore do not receive CMS program letters.
- [DQA Memos](#)  
DQA Numbered Memos deal with policies, information, and interpretation of federal as well as state regulations and guidelines of the programs under DQA's jurisdiction. Memos can be searched by topic or are listed from most current to latest. Recent memos include information on construction requirements for certain CBRFs, fire reporting updates, and Background Check and Misconduct Investigation updates.
- [Pharmacy Newscapsule](#)  
The Pharmacy Newscapsule is a newsletter that is published quarterly by DQA. This newsletter is a means of providing up-to-date information to staff who survey health, and residential facilities regulated by DQA. The material is presented with a "surveyor focus." However, the information has been informative and helpful to providers and others as well.
- Public Health Bulletins  
The DHS Division of Public Health (DPH) releases notices to assist health care providers in the prevention and control of communicable diseases, as well as coordinates response to natural and human-made disasters.

### [DQA Nurse Aide Training and Testing Email Updates](#)

Provides updates about DQA nurse aide training programs including information on the annual Nurse Aide Training and Testing Forums and updates to the candidate handbook.

### [DQA Plan Review and Inspections Email Updates](#)

Provides updates about issues related to building or expanding health or residential care facilities. This includes DQA physical plant memos, CMS (Centers for Medicare & Medicaid Services) Life Safety Code program letters, and more.

### [Wisconsin Admin. Code ch. DHS 75 Email Updates](#)

Provides updates on the revised Wis. Admin. Code ch. DHS 75. This is helpful for providers who are certified under this administrative code.

### [Other Wisconsin Department of Health Services \(DHS\) email lists.](#)

You can sign up here to receive updates regarding Wisconsin Department of Health Services programs and services. Information is listed by topic, and includes news releases, initiatives, and innovative programs. You can also receive information on DHS Data Releases including population surveys, various health topics, vital records, and partner communications.

## Provider Specific Requirements



Regulatory compliance in healthcare is following the rules and guidelines set forth by the regulatory agency to ensure the standards established for the healthcare industry. Ensuring regulatory compliance in healthcare requires a proactive approach. Maintaining that compliance includes record keeping, documentation, implementation and updating of policies, reporting procedures, and ensuring staff are appropriately trained.

In order to develop best practice guidelines to ensure compliance with the regulations and the protection of residents, both newly licensed/certified and established entities should first ensure familiarity with the applicable regulations.

## State Law

As discussed previously, Chapter 50 Uniform Licensure found at <https://docs.legis.wisconsin.gov/statutes/statutes/50> includes detailed information related to licensing of adult family homes, CBRFs, hospices, RCACs, and a few other provider types.

In addition, Chapter 51 State Alcohol, Drug Abuse, Developmental Disabilities and Mental Health Act, available at <https://docs.legis.wisconsin.gov/statutes/statutes/51>, provides that a full continuum of substance use services be available to Wisconsin citizens.

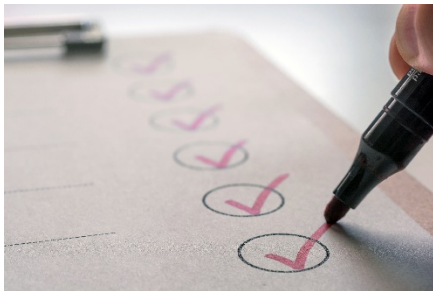
## Administrative Code

These state laws give DHS the authority to establish regulations and standards for the care, treatment or services, and health, safety, rights, well-being and welfare of clients

and residents in the various provider types. Each provider type is then governed by the regulations identified in the appropriate administrative code:

- Adult Day Care Centers  
DHS 105 [https://docs.legis.wisconsin.gov/code/admin\\_code/dhs/101/105/14](https://docs.legis.wisconsin.gov/code/admin_code/dhs/101/105/14)
- Adult Family Homes  
DHS 88 [https://docs.legis.wisconsin.gov/code/admin\\_code/dhs/030/88](https://docs.legis.wisconsin.gov/code/admin_code/dhs/030/88)
- Community Based Residential Facilities  
DHS 83 [https://docs.legis.wisconsin.gov/code/admin\\_code/dhs/030/83](https://docs.legis.wisconsin.gov/code/admin_code/dhs/030/83)
- Home Health Agencies  
DHS 133 [https://docs.legis.wisconsin.gov/code/admin\\_code/dhs/110/133](https://docs.legis.wisconsin.gov/code/admin_code/dhs/110/133)
- Hospices  
DHS 131 [https://docs.legis.wisconsin.gov/code/admin\\_code/dhs/110/131](https://docs.legis.wisconsin.gov/code/admin_code/dhs/110/131)
- Personal Care Agencies  
DHS 107 [https://docs.legis.wisconsin.gov/code/admin\\_code/dhs/101/107/112](https://docs.legis.wisconsin.gov/code/admin_code/dhs/101/107/112)
- Residential Care Apartment Complexes  
DHS 89 [https://docs.legis.wisconsin.gov/code/admin\\_code/dhs/030/89](https://docs.legis.wisconsin.gov/code/admin_code/dhs/030/89)
- Substance Use Services  
DHS 75 [https://docs.legis.wisconsin.gov/code/admin\\_code/dhs/030/75](https://docs.legis.wisconsin.gov/code/admin_code/dhs/030/75)

## **CCDET Quick Reference Charts**



State of Wisconsin Administrative Rules outline requirements specific to documentation, policies and procedures, record keeping, reporting, and much more. Administrative rule language can be somewhat intimidating, so CCDET has designed Quick Reference Charts to help providers navigate the regulations related to administrative requirements.

This workshop includes Administrative Rule Quick Reference Charts for the following provider types:

- Adult Day Care Centers
- Adult Family Homes
- Community Based Residential Facilities
- Home Health Agencies
- Hospices
- Personal Care Agencies
- Residential Care Apartment Complexes
- Substance Use Services in CBRFs

Printable  
required

Each guide cites the appropriate administrative rule pertaining to that provider type. Each guide also provides a description of the requirements, any time limits, along with additional notes. These Administrative Rule Quick Reference Charts are one tool that can assist in ensuring compliance.

Please choose the chart (or charts) that you printed earlier. The PowerPoint shows the chart for CBRFs as an example. Let's review these quick reference charts that will help guide your policies and procedures.

## **Additional Review, Reporting & Process Information**

The Department of Health Services has developed a reasonable, efficient, and consistent system of regulation, licensing, and certification that effectively encourages compliance; maintains accountability; protects public health and safety; fosters quality of life; promotes provider responsibility; supports consumer awareness, responsibility, and satisfaction; promotes consumer independence and choice; and protects vulnerable adults.

In the spirit of maintaining compliance, being accountable, protecting vulnerable adults, etc., DHS requires reporting certain occurrences or incidents under various statutes and administrative codes. In some instances, meeting compliance also requires seeking Department approval for certain activities such as new construction or additions.

For example, assisted living facilities are required to report certain incidents to DHS. For additional information, see Reporting Requirements for Assisted Living Facilities at: <https://www.dhs.wisconsin.gov/publications/p02007.pdf>

## **Construction/Remodeling Plan Review**

Certain health care facilities, including CBRFs, RCACs, AFHs, facilities serving people with developmental disabilities and other facility types must submit construction project plan reviews to the Wisconsin Department of Health Services. This includes, but isn't limited to, the following project types:

- Building
- Heating, ventilation, and air conditioning (HVAC) systems
- Fire protection systems

The DQA Office of Plan Review and Inspection (OPRI) conducts these reviews.

The [Plan Review Intake Status Report](#) (PDF) allows plan review applicants to check the status of their application. All applicants receive a plan reference number from OPRI via email. Reviews of a plan application may take up to 45 business days. Incomplete applications will not be processed.

Facilities must complete and submit a Compliance Statement [Compliance Statement, F-62495](#) to DQA prior to a final inspection. Compliance statements are required before occupying:

- A new building
- An addition
- Changes to an existing building

DQA provides a Health Care Facility Construction Documentation Checklist which describes topics reviewed during an inspection. [Health Care Facility Construction Documentation Checklist, F-62494](#)

The [Regulatory Authority for Health Care Construction Plan Review, P-00746](#) outlines plan reviews provided by the Office of Plan Review and Inspection (OPRI). Email questions regarding codes to [dhsdqaopribldgtech@dhs.wisconsin.gov](mailto:dhsdqaopribldgtech@dhs.wisconsin.gov) and questions about plan submittals to [dhsdqaoplanreview@dhs.wisconsin.gov](mailto:dhsdqaoplanreview@dhs.wisconsin.gov).

## **Fire Plan & Reporting**

Life Safety Code §§ 18.7.2.2 and 19.7.2.2 require facilities to have a written fire safety plan specific to their location that outlines the minimal actions required by facility personnel upon discovery of fire.

The plan shall include the following:

- (1) Use of alarms
- (2) Transmission of alarm to fire department
- (3) Emergency phone call to fire department
- (4) Response to alarms
- (5) Isolation of fire
- (6) Evacuation of immediate area
- (7) Evacuation of smoke compartment
- (8) Preparation for floors and building for evacuation
- (9) Extinguishment of fire

Details of the applicable regulations, facility expectations, and procedural guidance are provided in the following resources:

- [Fire Procedures for Fire Alarm Systems \(P-01729\)](#)
- [Fire Procedures for Sprinkler Systems \(P-01730\)](#)

Some providers are required to report a fire event within the time specified in Wis. Admin. Code. Examples of reportable fire events may include the instance of a fire, an event where fire department was contacted, a medical treatment required due to smoke, evacuation, and/or temporary relocation of clients.

The licensed facilities listed below are required to report a fire event to the Division of Quality Assurance within the time specified in Wisconsin Administrative Code.

AFHs	DHS § 88.05(4)(e)	Within 72 hours
CBRFs	DHS § 83.12(4)(e)	Within 3 working days
Hospices	DHS § 131.39 (8)	Within 72 hours

A fire report must be completed online. An approved fire report survey is available at: [Health Care Facility Fire Report, F-62500](#). If you have questions regarding fire reporting, please contact the DQA Life Safety Fire Authority at (608) 266-8016.

## **Death Reporting**

Under Wisconsin statutes, certain providers must report the death of a resident to the Wisconsin DHS within 24 hours of the death or learning of the death if there is cause to believe the death was related to:

- The use of a physical restraint or seclusion

- The use of one or more psychotropic medications
- A suspected suicide

Specific death reporting requirements apply to the following provider types:

- Community-Based Residential Facility - [Wis. Stat. § 50.035\(5\)\(b\)](#)
- Adult Family Home - [Wis. Admin. Code § DHS 88.03\(5\)\(e\)1](#)
- Adult Day Care Centers - [Wis. Admin. Code § DHS 105.14\(2\)\(k\)](#)
- Treatment Facility (mental health or substance abuse program/service) - [Wis. Stat. § 51.64\(2\)\(a\)](#)

To notify DHS, complete the [Client/Patient/Resident Death Determination, F-62470](#). This form includes guidelines to help you determine if the death is a reportable death, such as the types of providers required to report a death, general information, and death determination guidelines. Submitting the form will automatically send an email to DQA at [dhsdqadeathreporting@dhs.wisconsin.gov](mailto:dhsdqadeathreporting@dhs.wisconsin.gov). A copy of the completed form will also be sent to the email you provide when filling out the form.

When in doubt as to whether a death is due to the use of physical restraint/seclusion, psychotropic medication, or suicide, report the death to DHS. Failure to report such deaths to DHS may result in a citation of noncompliance by the department.

In accordance with [42 CFR § 418.110\(p\)](#), a hospice must report restraint or seclusion deaths directly to the CMS Office of the Regional Administrator, Chicago Regional Office at 312-886-6432.

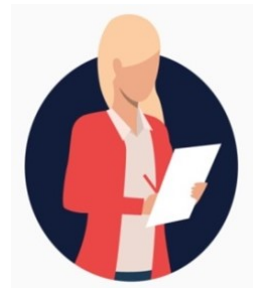
Therefore, a hospice must report:

- Each unexpected death that occurs while a patient is in restraint or seclusion.
- Each unexpected death that occurs within 24 hours after the patient has been removed from restraint or seclusion.
- Each death known to the hospice that occurs within one week after restraint or seclusion where it is reasonable to assume that use of restraint or placement in seclusion contributed directly or indirectly to a patient's death.

Questions can be emailed to [dhsdqadeathreporting@dhs.wisconsin.gov](mailto:dhsdqadeathreporting@dhs.wisconsin.gov).

## Survey Guides

The Division of Quality Assurance (DQA) is responsible for conducting surveys in healthcare, home care, and residential care settings in Wisconsin to ensure that state licensure and federal Medicare certification requirements are met.



How often surveys happen depends on the provider type. State license laws and federal requirements define when surveys take place. Other factors can impact when surveys are needed too. For example, a provider might have more surveys if there are complaints, or they've had bad survey results in the past.

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## **Survey Similarities**

The goal of surveys is to make sure providers meet state and federal requirements and offer quality care. Standard surveys are completed to recertify or renew a facility's license; verification visit surveys are conducted to make sure a provider has fixed any issues found in a past survey; investigation visit surveys are done to look at a complaint or incident.

In general, surveys focus on a provider's performance and compliance with laws and standards in several areas, some of which include:

- Resident rights
- Program services
- Services offered, including nutrition and food services
- Physical environment and safety
- Medication
- Staff training

### **Overview of the Survey Process**

The survey process for all provider types follows a similar set of 5 basic steps to include:

1. Off-Site Survey Preparation – The surveyor reviews the historical file of the entity, profiles, and other applicable information.
2. Entrance Conference – Upon entering the entity, the surveyor will introduce him/herself and ask to meet the administrator/director; request a working area; explain the purpose of the visit; and request information needed to conduct the survey.
3. Information Gathering – This could include interviews, client/participant record review, personnel record review, environmental review, safety code review (if applicable), facility self-reports, and complaints/grievances.
4. Information Analysis and Compliance Decision Making – The surveyor reviews and analyzes all collected information to determine whether the provider has complied with the applicable requirements. Analysis and decision-making is an ongoing process throughout the survey and the surveyor will maintain ongoing communication with the provider's contact person as questions arise.
5. Exit Conference – The exit conference is an informal meeting of the provider staff and the surveyor at the end of the survey. The surveyor summarizes the preliminary findings, including requirements that have not been met, as well as the facts and examples on which the findings are based. The exit conference also gives the provider the opportunity to discuss the findings and supply additional information.

Following a survey, the surveyor summarizes the survey findings in a final report. If the surveyor determines that the provider is out of compliance with rules, standards, or regulations, the surveyor will document those findings using the [Statement of Deficiency](#)

[\(SOD\) form \(CMS-2567\) \(PDF\)](#). Survey findings will be served electronically (by email) within 10 working days following the exit conference.

If, after receiving a SOD, provider staff have questions regarding the survey findings, they may consult informally with the surveyor's supervisor to discuss compliance issues. Some providers are required to submit a Plan of Correction (POC) while others are not; however, all providers are required to take corrective action to correct any violations and to ensure continued future compliance. In all cases, failure to correct violations may result in further action by the department including suspension of admissions, placement of conditions, or revocation of certification/licensure.

All providers are encouraged to tell DQA about their survey experience by completing the DQA Post Survey Questionnaire available at: <https://survey.alchemer.com/s3/7754814/DQA-Post-Survey-Questionnaire>. Your comments and responses to the questions are used to evaluate and improve the quality of the survey process.

Data provided in your response to the questionnaire will not influence state licensure or certification status. The identity of the provider/supplier and survey staff will remain anonymous throughout the analysis and interpretation of the data unless you choose to share this information.

## **e-SOD/e-POC Process**

DQA issues electronic Statements of Deficiencies (e-SOD) via email to health care providers. The provider can use an electronic Plan of Correction (e-POC) form to submit information to DQA. Most providers will complete the Provider Agreement form during an on-site survey. At that time, the provider's authorized representative agrees to accept the results of a survey including electronic Statements of Deficiency (SODs). Providers can select the email address where the SODs are sent. Providers also agree to submit Plans of Correction (POCs).

You can learn more about the e-SOD/e-POC process at <https://www.dhs.wisconsin.gov/regulations/e-sod.htm> including:

- Secure file sharing
- Email and attachments
- Completing the e-POC
- Attestation of Correction
- Emailing the POC/attestation
- Acceptable POCs

## **Provider Specific Survey Guides**

The DQA [Regulation of Health and Residential Care Providers](#) web page includes specific state rules and federal regulations for each provider type. There are also [survey guides](#) based on provider type. These survey guides are a general reference for informational purposes about the survey process for specific provider types, to include:

- [Assisted Living Survey Guide](#)
- [Survey Guide: Adult Day Care Centers, P-03495 \(PDF\)](#)
- [Survey Guide: Behavioral Health Certification for Mental Health and Substance Abuse Services, P-63174 \(PDF\)](#)
- [Survey Guide Home Health and Hospice Licensure and Certification, P-63075 \(PDF\)](#)
- [Survey Guide - Personal Care Agency Approval, P-00191](#)

All newly licensed/certified providers should fully review the appropriate survey guides and contact the appropriate Bureau with any questions.

### Assisted Living Facilities



The DQA Bureau of Assisted Living (BAL) conducts surveys to review assisted living facilities. During the surveys, DQA reviews facilities to ensure they meet all state regulations and home and community-based services (HCBS) rules. Surveys may be announced or unannounced.

Surveys are conducted by BAL in the following facilities:

- Adult family homes
- Community-based residential facilities
- Residential care apartment complexes

Detailed information regarding the survey process in assisted living facilities is found on the webpage at <https://www.dhs.wisconsin.gov/regulations/assisted-living/survey.htm>.

Here you can find information on the:

- Types of assisted living facilities
- Survey process
- Decision making
- Enforcement guidelines
- Correcting violations
- Verifying corrections to violations
- Failure to correct violations
- Forfeiture payment
- Appeals
- Waivers, approvals, variances, and exceptions (WAVE)

BAL uses seven types of surveys. These surveys involve:

1. Initial and/or Technology-Based – Used to review structural requirements, such as building construction and design and if a building is safe and accessible. The survey also reviews process requirements. Example process requirements include staff training.
2. Abbreviated – Used for facilities in good standing who have no enforcement activity in the last three years; received a standard survey since receiving a license or certification; have no substantiated complaints leading to deficiencies

within the last three years; and have been licensed or certified for at least three years.

3. **Standard** – Used when a facility doesn't qualify for an abbreviated or initial survey. Observation and interview techniques are primarily used to gather data during the on-site visit. Review of consumers' records and facility records are done as needed to further investigate concerns identified by observation and interview findings and to determine compliance with process requirements.
4. **Complaint** – Used to review complaints made against a facility. This includes violations of Wisconsin and/or HCBS rules.
5. **Verification** – Used make sure a facility has addressed a violation.
6. **Self-Report** – Used when the Bureau of Assisted Living investigates a self-reported claim.
7. **Monitoring** – Used when there are concerns about the health, safety, and well-being of residents.

A BAL surveyor and their supervisor review the survey results. If they found a violation, they will issue a citation via a SOD. They also decide whether to submit the citation for enforcement review. Assisted living regional directors (ALRD) send violations to the enforcement specialists. The enforcement specialists impose sanctions and penalties.

Violations referred to enforcement specialists include violations that:

- Result in serious harm or have a potential for serious harm.
- Show that facility processes are not working, leading to harm.
- Increase the chances of serious mental/physical harm or death of a resident.
- Pose a threat to the health, safety, and welfare of a resident.

Note that for registered (not certified) residential care apartment complexes, surveys only happen if there's a complaint. If the surveyor finds problems, they issue a Notice of Non-Compliance letter instead of a SOD form.

BAL no longer requires a [Plan of Correction](#) (POC) be submitted to the bureau on a regular basis. Instead, facilities should have an internal way to make sure all rules and regulations are being followed; detect and correct violations when they happen; collect and review data related to facility activities; and assess assisted living facility processes and policies. There are specific requirements for assisted living provider types:

- **Adult family homes, community-based residential facilities** – Have 45 days to correct violations internally; BAL may conduct a survey after 45 days.
- **Certified residential care apartment complexes** – Have 45 days to correct violations after receiving notice (the facility will submit a plan of correction using the Attestation of Correction form, F-02172); BAL may conduct a verification survey after 45 days.
- **Registered residential care apartment complexes** – When violations are identified, the facility is sent a letter showing they are violating a regulation; the facility is to correct violations internally.

## Behavioral Health Certification for Mental Health & Substance Use Services



The Bureau of Assisted Living (BAL) includes the Behavioral Health Certification Section (BHCS) which conducts surveys of providers certified to provide mental health and substance use treatment services. The purpose of a survey is to ensure that state certification requirements are met and maintained. The standard survey addresses compliance with Chapters 50 and 51 of the Wisconsin Statutes and the applicable Administrative Code requirements.

Information regarding the survey processes for all certified mental health and substance use treatment services are found in the DQA survey guide publication, P-63174 found at <https://www.dhs.wisconsin.gov/publications/p6/p63174.pdf>.

State certification requires that agencies submit a Plan of Correction (POC) within 30 calendar days following the issuance of a SOD. The due date is indicated on the SOD cover letter and email message. Correction should be accomplished within 60 calendar days or less; however, more serious violations require correction within 30 calendar days or less. Certificates may be renewed for up to two years based on the degree of compliance with administrative codes. A provisional certificate may be issued when a program does not comply with standards.

The Behavioral Health Certification survey guide also includes information on waivers and variances, appeals, and grievances and complaints for providers certified under DHS 75.

## Adult Day Care Centers



The DQA Bureau of Health Services (BHS) is responsible for conducting onsite surveys in adult day care centers (ADCC) to ensure that state requirements are met. Detailed information regarding the survey process for ADCCs is found in the survey guide publication, P-03495 found at <https://www.dhs.wisconsin.gov/publications/p03495.pdf>.

Prior to certification, the ADCC must undergo an initial, announced survey visit to ensure required regulations and standards for the care, health and welfare of participants will be met including an environmental review. An ADCC must also meet federal Home and Community Based Services (HCBS) standards to become certified and receive Medicaid funding. HCBS compliance is reviewed on the initial survey and during recertification surveys.

Per DHS 105.14(2)(e), DQA shall conduct periodic inspections of the ADCC and may review clinical and administrative records, policies, and other required documents. There are several forms used by the ADCC surveyor during the survey process that you can use to ensure compliance prior to a survey:

- [Adult Day Care Center Participant Records Review, F-03128](#)

- [Adult Day Care Center Staff Record Review, F-03129](#)
- [Adult Day Care Center Environmental Review, F-03122](#)
- [Adult Day Care Center: Home and Community Based Service \(HCBS\) Review: Benchmark Review and Compliance Report, F-03124](#)

If the BHS surveyor determines that the ADCC is out of compliance with rules, standards, or regulations, the surveyor will document those findings on the Statement of Deficiencies form. Survey findings will be served electronically (by email) within 10 working days following the exit conference. A plan to correct violations of deficiencies found by BHS should be written electronically on the Plan of Correction form (which is sent with the SOD when issued) and submitted by email to the lead surveyor within 10 calendar days.

Correction should be accomplished within 60 days of the exit conference or sooner. Serious deficiencies or violations require a correction date of 30 days or less. If the completion date extends beyond 60 days, the plan of correction must include benchmark dates to specify when correction stages will be completed. BHS will verify correction of all deficiencies after the established completion dates have passed.

### Home Health and Hospice Licensure and Certification



The DQA Bureau of Health Services (BHS) conducts unannounced surveys in home health agencies and hospice agencies to ensure that state licensure and federal Medicare certification requirements are met.

The information detailed in publication P-63075 serves as a guide to both the home health and hospice survey processes and can be found at

<https://www.dhs.wisconsin.gov/publications/p6/p63075.pdf>.

The BHS surveyor summarizes the survey findings in a final report. If the surveyor determines that the entity is out of compliance with state rules, standards, or regulations, the surveyor will document those findings. The findings serve as a basis for the entity to analyze its deficient practices or system failures and develop plans of correction. Survey findings will be served electronically within 10 working days following the exit conference. Entities that participate in the federally sponsored Title XVIII (Medicare) and Title XIX (Medicaid) programs are also surveyed for compliance with federal regulations. Federal regulations for home health agencies are found at 42 CFR 484. Federal regulations for hospices are found at 42 CFR 418.

A plan to correct violations or deficiencies found by the Division should be written electronically on the Plan of Correction form (which is sent with the SOD when issued) and submitted by email to the lead surveyor, or to CMS if directed to do so, no later than 10 calendar days from receipt of the SOD.

An authorized representative of the entity should sign and date the first page of the Statement of Deficiencies and return it with the plan of correction:

- An entity that violates state requirements is requested to submit a plan to correct the violations (plan of correction).
  - A home health agency that does not participate in the Medicare or Medicaid programs shall submit a plan of correction within 10 working days following receipt of the Statement of Deficiencies for state violations.
  - A hospice that does not participate in the Medicare or Medicaid programs shall submit a plan of correction within 10 calendar days of receipt of a Statement of Deficiencies for state violations.
- A federally certified home health agency or hospice must submit a plan of correction for all federal deficiencies within 10 calendar days following receipt of a Statement of Deficiencies in order to retain certification in the Medicare or Medicaid programs.

Correction should be accomplished within 60 calendar days of the exit conference or sooner. Serious deficiencies or violations require a correction date of 45 calendar days or less. If the completion date extends beyond 60 calendar days, the plan of correction must include benchmark dates to specify when correction stages will be completed. DQA may verify correction of all state and federal deficiencies after the established completion dates have passed through an unannounced surveyor onsite visit, or, when appropriate, through desk review.

### Personal Care Agency Approval



The Bureau of Health Services (BHS) is also responsible for conducting surveys of personal care agencies to ensure state requirements are met. BHS may make any inspections and investigations it considers necessary and may review clinical and administrative records, policies and other documents required under DHS 105.17(4) and DHS 107.112.

The survey guide, publication P-00191, found at <https://www.dhs.wisconsin.gov/publications/p0/p00191.pdf> provides an overview of the process specific to personal care agencies.

The surveyor summarizes survey findings in a final report. If the surveyor determines that the personal care agency is out of compliance with rules, standards, or regulations, the surveyor will document those findings. Survey findings are documented on the Statement of Deficiencies form and will be served electronically (by email) within 10 working days following the exit conference.

A plan to correct violations of deficiencies found by the BHS should be written electronically on the Plan of Correction form (which is sent with the SOD when issued) and submitted by email to the lead surveyor within 10 calendar days following receipt of the Statement of Deficiencies. Confirmation of an acceptable Plan of Correction will be provided electronically via email by the lead surveyor. BHS will verify correction of all deficiencies after the established completion dates have passed.

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# Common Compliance Concerns

From the first thought of becoming a licensed or certified provider, to completing the entire licensure process, your goal was to provide the best care, services, and treatment to the individuals you serve in your setting. As part of that commitment, you want to maintain good compliance with all the requirements. Part of ensuring compliance is identifying and correcting areas of deficiency before a citation is issued.

Significant and/or on-going non-compliance issues may lead to either voluntary closure or revocation by DHS. While most facility closures occur due to change of ownership, it is important to understand some common compliance concerns that you can avoid, ensuring your commitment to compliance with the regulations.

## Adult Day Care Centers

- 105.14(8)(b)3. Water Temperatures (mixing valves)
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- 105.14(5)(b)2.a-e Water Temperatures (at sinks)
- 
- 

- 105.14(5)(b)2.a-e. Information to be Obtained at Enrollment
- 
- 

- 105.14(7)(f)6.a-c. Food Safety
- 
- 

- 105.14(5)(b)3. Enrollment Agreement
- 
-

**Adult Family Homes**

- 88.10(3)(l) Safe Physical Environment
- 
- 

- 88.05(3)(a) Home Environment
- 
- 

- 88.07(3)(a) Prescription Medications
- 
- 

- 88.04(2)(g)1 Health Screening for Staff
- 
- 

- 88.06(3)(f) Review of ISP
- 
- 

**Community-Based Residential Facilities**

- 83.35(3)(d) Service Plans Updated Annually or on Changes
- 
-

- 83.32(3)(h) Rights of Residents to Receive Medications
- 
- 

- 83.43(1) Environment Safe, Clean, and Comfortable
- 
- 

- 83.20(2)(a)-(d) Department Approved Training Courses
- 
- 

- 83.47(2)(d) Fire Drills
- 
- 

**Home Health Agencies**

- DHS 133.20(2)(a) Plan of Care
- 
- 

- DHS 133.20(4) Plan of Care
- 
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- DHS 133.20(1) Plan of Care
- 
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- DHS 133.06(4)(d)1 Administration
- 
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- DHS 133.06(5)(a) Infection Control
- 
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**Hospice**

- DHS 131.21(3)(b) Content of the Plan of Care
- 
- 

- DHS 131.25(4)(a),(b),(c) Nursing Services
- 
- 

- DHS 131.21(1) Plan of Care – General Requirements
- 
- 

- DHS 131.23(2) Infection Control – Prevention
- 
- 

- DHS 131.19(2)(g) Patient Rights – Abuse/Neglect/Misappropriation
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**Personal Care Agencies**

- 105.17(1r)(b)1 TB/Communicable Disease Screening
- 
- 

- 105.17(6) (a) and (b) QAPI Program
- 
- 

- 105.17(1n)(a)1 Employee evaluations
- 
- 

- 105.17(4)(a)1-2 Available for inspection
- 
- 

**Residential Care Apartment Complexes**

- 89.34(17) Tenant Rights – Safe Environment
- 
- 

- 89.28(1) Risk Agreement
- 
- 

- 89.23(2)(a)2.c Services – Nursing Services
- 
-

- 89.23(4)(a)2 Services – Service Providers
- 
- 

- 89.23(4)(d)1 Services – Staff Training
- 
- 

**Substance Use Services in CBRFs**

- DHS 75.24(22)(d) Discharge Summary
- 
- 

- DHS 75.24(22)(e) Discharge Summary
- 
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- DHS 75.19(3) Clinical Supervision
- 
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- Staff Development DHS 75.19(4)
- 
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- Operational Requirements – DHS 75.48(1)(p)
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## **Proactive Corrective Action**

Being proactive and identifying potential deficiencies before they may affect resident care and safety, and result in a deficiency, or worse, a forfeiture or corrective action by DQA is critical for maintaining compliance. Providers are encouraged to know the regulations, as well as the intent of the regulation.

The Corrective Action Checklists Handout includes suggestions for proactive actions that providers can refer to in order to help ensure quality resident care and services, as well as avoid deficiencies.

## **Review Learning Points**

Having completed this course, participants will be able to:

- comply with Chapter 50 requirements for all provider types
- identify provider specific regulatory requirements for documentation, record keeping and other administrative tasks
- be familiar with other review, reporting and process information that may apply
- identify survey process similarities and differences across provider types
- address common compliance concerns
- utilize resources available to support regulatory compliance

## **Resources**

### **Wisconsin Misconduct Registry**



The Wisconsin Misconduct Registry is a record of the names of individuals with a substantiated finding of misconduct. Providers should review the Registry monthly for the names of individuals most recently added due to a substantiated finding of misconduct. Employees or contractors who did not have a finding when hired may receive one while employed but fail to report the finding to the employing provider. Accordingly, the only way to know about new findings is to check the updated Misconduct Registry each month.

These monthly additions of employees or contractors with a finding of misconduct on the Wisconsin Misconduct Registry are posted by the 15<sup>th</sup> of the month and may be viewed on the Internet at: <https://www.dhs.wisconsin.gov/misconduct/registry.htm> Federal regulations require that nurse aides with a finding of misconduct be permanently barred from working in any capacity in federally regulated nursing homes or Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID).

More detailed information is available at Wisconsin's Internet-based Nurse Aide Registry at <https://wi.tmutest.com/>. Search by SSN when possible for more accurate results.

- For a nurse aide (NA): Information will be provided regarding the aide's state or federal employment eligibility and whether a finding of misconduct has been placed under the aide's name.
- For any other non-credentialed employee or contractor (not certified): The name of any other person who has a substantiated finding will also be placed on the Registry. No person listed on the Registry may be employed in any provider type regulated by the Wisconsin DHS unless approved through the Rehabilitation Review process.

## **Provider Search Tool**

The Provider Search tool found at <https://www.dhs.wisconsin.gov/guide/provider-search.htm> gives you an easy and fast way to find a health or residential care provider in Wisconsin. All providers listed are regulated by DQA. The Provider Search tool helps you find residential care facilities in Wisconsin. In the Survey History section, you can view survey results from health care and assisted living facilities. You can see survey results from the past three years. Provider Search does not include survey results for hospitals. Provider Search is updated weekly on Sunday. There may be some delay between when the survey happens and when results are posted. If you can't find a survey, email [dhswebmaildqa@dhs.wisconsin.gov](mailto:dhswebmaildqa@dhs.wisconsin.gov).

Note that the health and residential care provider information contained in Provider Search originates from an application hosted by the Centers for Medicare and Medicaid Services (CMS). This CMS-maintained application is being replaced with a new application. Some provider types have already migrated to the new application. In order to present consumers with current provider information, Provider Search must be updated to use the new application. During this transition period, information regarding Ambulatory Surgical Center, Home Health Agency, and Hospice provider types may not be up to date on this website.

## **Training Resources**

### **DHS Division of Quality Assurance (DQA)**

Provider Training

<https://www.dhs.wisconsin.gov/regulations/training/index.htm>

### **University of Wisconsin Oshkosh**

#### **Center for Community Development, Engagement and Training (CCDET)**

#### **Wisconsin Caregiver Training Project**

Cost-effective, quality education topics for DQA-regulated providers

<https://www.uwosh.edu/ccdet/caregiver-home/>

Regulatory related resources include:

- 5 Steps to Caregiver Background Checks
- Investigating & Reporting Allegations of Misconduct
- Ready, Set, Train – Caregiver Continuing Education
- Setting Your Training Course: Navigating the regulations